

REFERENCE TITLE: attorney fees; recovery; civil actions

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2435

Introduced by
Representative Barto

AN ACT

AMENDING SECTION 12-341.01, ARIZONA REVISED STATUTES; RELATING TO ATTORNEY FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 12-341.01, Arizona Revised Statutes, is amended to
3 read:

4 12-341.01. Recovery of attorney fees
5 A. In any contested CIVIL action ~~arising out of a contract, express or~~
6 ~~implied~~, the court may award the successful party reasonable attorney
7 fees. If a written settlement offer is rejected and the judgment finally
8 obtained is equal to or more favorable to the offeror than an offer made in
9 writing to settle any contested action arising out of a contract, the offeror
10 is deemed to be the successful party from the date of the offer and the court
11 may award the successful party reasonable attorney fees. This section shall
12 in no manner be construed as altering, prohibiting or restricting present or
13 future contracts or statutes that may provide for attorney fees.

14 B. The award of reasonable attorney fees pursuant to subsection A
15 should be made to mitigate the burden of the expense of litigation to
16 establish a just claim or a just defense. It need not equal or relate to the
17 attorney fees actually paid or contracted, but the award may not exceed the
18 amount paid or agreed to be paid.

19 C. The court shall award reasonable attorney fees in any contested
20 action upon clear and convincing evidence that the claim or defense
21 constitutes harassment, is groundless and is not made in good faith. In
22 making the award, the court may consider any evidence it deems appropriate
23 and shall receive this evidence during a trial on the merits of the cause, or
24 separately, regarding the amount of fees it deems in the best interest of the
25 litigating parties.

26 D. The court and not a jury shall award reasonable attorney fees under
27 this section.